

## TITLE 16. CALIFORNIA BOARD OF OCCUPATIONAL THERAPY

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments relevant to the proposed action in writing. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board at its office no later than 5:00 p.m. on February 18, 2008.

The board does not intend to hold a hearing in this matter. If any interested party wishes that a hearing be held, he or she must make the request in writing to the board. The request must be received in the board's office not later than 5:00 p.m. on February 6, 2008.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the action substantially as described below or may modify such action if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the action.

Authority and Reference: Pursuant to the authority vested by sections 2570.13 and 2570.20 of the Business and Professions Code, and to implement, interpret or make specific sections 2570.2, 2570.3, 2570.4, 2570.5, 2570.6 and 2570.13, the Board is proposing revising Division 39, Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

On January 1, 2001, Senate Bill 1046 (Murray, Chapter 697, Statutes of 2000) took effect, establishing the Board whose duties are to license occupational therapists, certify occupational therapy assistants and regulate the occupational therapy profession. This law requires the Board to adopt rules necessary to assure appropriate supervision of occupational therapy assistants, limited permit holders, students, and aides. The proposed regulatory actions are necessary to implement this legislation.

Current law outlines the appropriate supervision of occupational therapy assistants. The proposed language amends 4181 to clarify the appropriate supervision of an occupational therapy assistant. Currently, 4181(a)(1) requires weekly review and inspection of all aspects of the occupational therapy services by the supervising occupational therapist. The proposed language would clarify that the weekly review could be accomplished onsite or via telecommunication. Currently, 4181(a)(2) requires that documentation of the supervision process include either documentation of client care provided by the supervising occupational therapists, or the supervising occupational therapist's co-signature of the occupational therapy assistant's care. However, the language is poorly structured and not easily understood by practitioners or employers. The revised language clearly states that verification of the supervision process shall include either documentation of *direct client care by the supervising occupational therapist*, or co-signature of the occupational therapy assistant's documentation. Currently, 4181(a)(3) requires that the supervising occupational therapist provide period onsite supervision of the assigned client care. This section is being split in to two subsections for simplification. The word "assigned" is being removed in order to clarify that the supervising occupational therapist is not required to observe the care rendered to each and every patient.

The proposed language also amends 4181(e) to require supervising occupational therapists verify that *all* occupational therapy practitioners hold a valid license, certificate or permit prior to allowing them to provide services. Currently, this section only requires supervising occupational therapists to determine if occupational therapy assistants and limited permit holders are authorized to practice.

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that the adoption of this regulation would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The following studies/relevant data were relied upon in making the above determination:  
None

Impact on Jobs/New Businesses:

The Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

### EFFECT ON SMALL BUSINESS

The Board has determined that the proposed regulation would not affect small businesses because the regulation does not regulate small businesses, does not require reports or any other compliance activities.

### CONSIDERATION OF ALTERNATIVES

The Board must determine that no reasonable alternative considered by it or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may request a hearing to present statements or arguments orally or in writing relevant to the above determinations, if requested within 15 days of the close of the written comment period.

#### TEXT OF PROPOSAL AND INITIAL STATEMENT OF REASONS AND INFORMATION

The Board has prepared an initial statement of reasons that sets forth the reasons for the proposed action and has all the information upon which the proposal is based.

Copies of the exact language of the proposed regulation and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained from our website as listed below upon written request from the contact person listed below.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulation is based is contained in the rulemaking file, which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the Board's website as listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

April Freeman  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
Sacramento, CA 95811  
(916) 322-3278  
(916) 445-6167 (FAX)  
cbot@dca.ca.gov

The backup contact person is:

Heather Martin  
California Board of Occupational Therapy  
444 North Third Street, Suite 410  
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Website Access: All materials regarding this proposal can be found on-line at [www.bot.ca.gov](http://www.bot.ca.gov) > Laws and Regulations > Proposed Regulations.